

THE SUPREME JUDICIAL COURT OF THE STATE OF MAINE
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. Cum-25-438

STATE OF MAINE,

Appellee

v.

LORDINA OSEI,

Appellant

ON APPEAL from the Cumberland County
Unified Criminal Docket

APPELLEE'S BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	3
STATEMENT OF THE FACTS	4
PROCEDURAL HISTORY	9
ISSUES ON APPEAL	10
ARGUMENT.....	10
I. Ms. Osei demonstrated a clear command of the English language such that she did not require the services of a translator.....	10
II. There was sufficient evidence to establish that Ms. Osei committed each of the three crimes she was found guilty of by the Jury.....	12
A. Operating Under the Influence, including a refusal to submit to a chemical test	12
B. Criminal Trespass	13
C. Refusal to sign a Uniform Summons and Complaint.....	14
CONCLUSION.....	15
CERTIFICATE OF SERVICE	16

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>State v. Atkins</i> , 2015 ME 162, 129 A.3d 952.....	13
<i>State v. McCurdy</i> , 2002 ME 66, 795 A.2d 84.....	13
<i>State v. Poblete</i> , 2010 ME 37, 993 A.2d 1104.....	11
<i>State v. Simons</i> , 2017 ME 180, 169 A.3d 399.....	13
<i>State v. Soucy</i> , 2012 ME 16, 36 A.3d 910.....	13, 14
Statutes	
17-A M.R.S. § 402(1)(D).....	14
29-A M.R.S. § 2601(5).....	15
29-A M.R.S. § 2411(1-A)(C)(1), (2).....	16

STATEMENT OF FACTS

On February 13, 2022, at 2:20 a.m., Portland Police Officer Craig Knight, a graduate of the Maine Criminal Justice Academy with specialized training in OUI detection and standardized field sobriety testing, was on patrol in Portland. He had conducted approximately 200–300 impaired-driving investigations in his career. (Tr. 18).

While driving southbound on State Street, Knight observed a white vehicle in the left lane drift several times over the center line of the two-lane, one-way roadway. (Tr. 18). As the vehicle approached the intersection of State and Danforth Streets, controlled by a flashing red signal, it failed to stop and proceeded through the light. (Tr. 18). Based on these lane violations and the failure to stop at the signal at approximately 2:20 a.m., Knight initiated a traffic stop. (Tr. 18).

When Knight approached the driver's side, he observed a female driver, later identified as the defendant, Lordina Osei, and a female passenger. (Tr. 18). Knight requested her license, registration, and insurance, and the defendant stated she had dropped her driver's license and was trying to find it. (Tr. 18-19). She exited the vehicle and went to the back seat to look under the driver's seat. (Tr. 19). As she located the license and stood back up, turning back toward Knight, she was unsteady on her feet and "fell into the car." (Tr. 19). Knight detected an odor of intoxicants coming from the vehicle. (Tr. 19).

Knight asked where they were coming from. The defendant appeared confused, saying at one point they were coming from and going to Westbrook; the passenger then interjected that they were coming from the Old Port. Knight testified that the Old Port at that hour is “pretty much full of just bars and restaurants.” (Tr. 17, 20). When asked if she had anything to drink, the defendant stated that she had consumed one drink. (Tr. 20).

Based on the time of night, the driving he observed, the odor of intoxicants, the defendant’s confusion about her origin and destination, and her admission to drinking, Knight asked her to step out to perform standardized field sobriety tests. (Tr. 21).

Knight first administered the horizontal gaze nystagmus (HGN) test in accordance with his MCJA training. (Tr. 22). While conducting the test from two to three feet away, Knight smelled a “very strong” odor of intoxicants coming directly from the defendant’s breath, as distinct from the general odor in the vehicle. (Tr. 22). On HGN there are six standardized “clues” of impairment; the defendant exhibited all six. (Tr. 23).

Knight next administered the walk-and-turn test on the level sidewalk. (Tr. 24-25). He instructed and demonstrated the test and Ms. Osei stated she understood. The walk-and-turn has eight standardized clues of impairment. On this test the defendant exhibited seven of eight clues. Knight observed that she lost her balance during the instructional stance, stepped off the (imaginary) line, missed multiple heel-to-toe

steps, used her arms for balance, performed an improper turn, took an incorrect number of steps, and stopped walking during the test. (Tr. 25). Knight testified that two clues alone are sufficient to indicate impairment; the defendant showed seven. (Tr. 25).

Knight then attempted to administer the one-leg-stand test, which requires the subject to stand on one foot with the other raised about six inches, arms at sides, looking at the raised foot and counting for thirty seconds. (Tr. 26). The defendant did not perform the test. Knight testified that although she insisted she was not “refusing,” she repeatedly stated she was cold and shaking, argued with him, and would not actually attempt the test despite multiple requests, so he treated it as a refusal. (Tr. 27). In reference to the cold weather, Ms. Osei stated she is not from “this county” like Officer Knight, despite his very thick Scottish accent. (Tr. 136).

In addition to the driving behavior, balance issues, strong odor of alcohol on the defendant’s breath, and field-sobriety results, Knight noted that at times her speech was “slightly thick,” as if her tongue were swollen, which he recognized as a sign of impairment. (Tr. 47). Considering the totality of these observations, Officer Knight concluded he had probable cause to believe the defendant was operating under the influence and placed her under arrest for OUI. (Tr. 27).

Knight transported the defendant to the Portland Police Department to administer an Intoxilyzer breath test. (Tr. 30). His cruiser was equipped with front and rear cameras, and he wore a body-worn camera; he testified that the videos

introduced as State's Exhibits 3, 4, and 5 fairly and accurately depict the events of that night. At the station garage, the defendant exited the cruiser and, while talking and "ranting" at Knight, walked toward a station door that officers do not ordinarily use. Knight attempted to guide her toward the usual entrance but, to avoid a physical confrontation, ultimately followed her through the door she chose. (Tr. 30).

Once in the Intoxilyzer room, the defendant sat in a chair against the wall rather than in the chair positioned next to the Intoxilyzer instrument necessary to provide a breath sample through the short mouthpiece tube. (Tr. 30-31). She immediately asked to have her handcuffs removed and to use the restroom. (Tr. 31). Knight, following his standard safety practice, declined both requests. (Tr. 31).

Knight then asked whether she would submit to the breath test. She answered "no." (Tr. 31). Consistent with Maine's implied consent law, Knight read the standard implied-consent form verbatim to the defendant. (Tr. 31-2). After each of the four paragraphs, Knight asked whether she understood but she shouted over him at every opportunity (Tr. 33). The defendant told him she urgently needed to urinate and warned that she would do so if not allowed to use the bathroom; after several such warnings, she urinated in the chair. (Tr. 36).

The defendant repeatedly responded that she did not understand while simultaneously talking loudly over him, focusing on her bathroom demands and arguing about her treatment. (Tr. 33). She nonetheless persisted in refusing to take the test. (Tr. 33).

Because of contemporaneous COVID restrictions at the county jail, OUI arrestees were being processed by summons rather than custodial booking. (Tr. 34). After the refusal, Knight prepared a uniform summons and complaint for OUI. He explained that the defendant's signature would not be an admission of guilt but would only acknowledge receipt and a promise to appear in court. (Tr. 118–119). To enable her to sign, he told her he needed her to stand so he could remove the handcuffs. (Tr. 54–55). He further told her that “the only thing stopping [her] from going home” was her refusal to stand, be uncuffed, and sign the form. (Tr. 34). The defendant refused to stand and refused to sign. (Tr. 38; State's Ex. 2).

Knight then told the defendant there was no longer any lawful reason for her to remain at the station and warned her that if she remained, she would be trespassing. He advised her of this more than once. (Tr. 37). She nonetheless remained seated, continued to argue, and demanded a “translator,” despite having spoken with Knight in fluent English for roughly 45 minutes up to that point, including during the stop, field tests, transport, and much of the station interaction. (Tr. 38). Knight testified that her English throughout was “100 percent perfect,” that she initiated and conducted conversations in English with him and her passenger, and that he had no difficulty understanding her and no indication she did not understand him. (Tr. 38). Officer Knight also noted that her phone was in English (Tr. 39)

Because the defendant refused to sign the original OUI summons and refused

to leave, Knight issued a second summons for failure to sign a uniform summons and complaint and a third for criminal trespass based on her refusal to leave after lawful warning. (Tr. 38). She refused to sign those summonses as well. (Tr. 38; State's Ex. 2).

After Knight summoned an additional officer and his sergeant, the defendant eventually agreed to stand. Her handcuffs were removed, and she left the station. (Tr. 40).

The State charged the defendant with operating under the influence, criminal trespass, and failure to sign a uniform summons and complaint. (Tr. 3–9). The jury heard Knight's testimony, reviewed the videos from his cruiser and body-worn camera, and heard the defendant's testimony. After deliberation, the jury returned guilty verdicts on all three counts and answered affirmatively the special OUI finding that, after being lawfully advised pursuant to the implied-consent statute, the defendant failed to submit to a breath test at the request of a law enforcement officer. (Tr. 205-206). There were no translation services employed at the trial. (Tr. 163).

PROCEDURAL HISTORY

The Appellee agrees with and incorporates the procedural history as outlined by the Appellant.

ISSUES ON APPEAL

- I. **Whether Ms. Osei’s demonstrated a clear command of the English, making translation services unnecessary?**
- II. **Whether the State provided sufficient evidence to prove each of the three counts beyond a reasonable doubt?**

ARGUMENT

- I. **Ms. Osei demonstrated a clear command of the English language such that she did not require the services of a translator.**

It is well established that “criminal defendants with ‘limited English proficiency’ are guaranteed the right to an interpreter pursuant to Maine law. *State v. Poblete*, 2010 ME 37, ¶ 27. It is not established, however, that any criminal defendant that asks for an interpreter is guaranteed one. The question is not whether the defendant wants interpretation, but if it is required in order to inform her of her rights.

Appellant cites to *State v. Hernandez- Rodriguez*, noting that this Court made a determination that issue of limited English proficiency be handled with care. Blue Br. 33, 2025 ME 9, 331. There, the court noted that the defendant “could speak English, though he could not understand everything” *Id.* at ¶ 30. And even with that limited proficiency, the court found an effective waiver of Miranda warning in the conversation with Agent two. *Id.*

Here we do not have limited proficiency. Officer Knight noted that Ms.

Osei's English was "100% perfect." Her conversation with her passenger was in English. Her phone was programmed in English. It was not until over 45 minutes of interacting with Officer Knight, where issues of language even arose, and while the tone of the conversation was combative, at no point did Ms. Osei ask for clarification or repetition or any typical request when struggling with spoken language.

And the manner in which interpreter services arose is significant. Unlike the defendant in *Hernandez- Rodriguez*, who was making an attempt to understand and noting limitations, Ms. Osei's assertion that she required translation services was combative. Rather than ask for clarification, she donned the persona of a rudimentary speaker by repeatedly shouting "No English. No English" State's Ex. 5 at 50:37-53. It was clear to the officer, and to the jury, that her language issues were directed more at frustrating the officer than seeking clarification.

The Appellant conceded as much in stating, "While Officer Knight explained the contents of the summons, Ms. Osei repeatedly said she didn't understand "what [he] was saying right now. No English. No English." Blue Br. 34. Officer Knight is trying to explain in the common language he has been using with Ms. Osei for nearly an hour. She is talking over him, as she did with the implied consent form. Her goal was not understanding but rather frustrating the process, a choice that also factors into whether she is intoxicated.

Perhaps the most telling fact in the entire question of language services, is that there was no translation at trial. Ms. Osei understood the entirety of her criminal trial in English.

II. The State provided sufficient evidence to prove each of the three counts beyond a reasonable doubt.

A. Standard of review

In determining whether the record contained enough evidence to support a conviction, this Court takes “the evidence in the light most favorable to the State to determine whether the fact-finder could rationally find every element of the offense beyond a reasonable doubt.” *State v. Simons*, 2017 ME 180, ¶ 17, 169 A.3d 399, 406 (quoting *State v. Atkins*, 2015 ME 162, ¶ 20, 129 A.3d 952. The fact-finder is permitted to “draw all reasonable inferences from the evidence.” *State v. Soucy*, 2012 ME 16, ¶ 10, 36 A.3d 910 (quotation marks omitted).

1. Operating Under the Influence, with Additional Aggravating Factor of Refusal

In an OUI hearing, “testimony that the defendant exhibited symptoms of intoxication can be sufficient to support a finding that the defendant was under the influence.” *State v. McCurdy*, 2002 ME 66, ¶ 10, 795 A.2d 84. “If the State proves

that, while operating a motor vehicle, a defendant's mental or physical faculties were impaired however slightly, or to any extent, by alcohol, drugs, or other intoxicants, a defendant is guilty of operating under the influence.” *Soucy* at ¶ 11.

Here the state presented a substantial amount of video evidence that showed clear intoxication. State Ex 5. The State presented clear video of defendant operating a motor vehicle, performing poorly on standard field sobriety tests, behaving in a combative manner, and urinating on herself. Further, the refusal to submit to chemical test was also on State’s 5.

2. Criminal Trespass

A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person...remains in any place in defiance of a lawful order to leave that was personally communicated to that person by the owner or another authorized person. 17-A M.R.S. § 402(1).

Officer Knight tells Ms. Osei on video:

“I am warning you for criminal trespass, because you are now trespassing here if you are not here for a good reason.” State’s Ex. 5 at 51:34.

This was stated in the Portland Police Department. Officer Knight is a Portland Police Officer. He is authorized to tell someone to exit the building.

3. Failure to Sign a Uniform Summons/Complaint

The law provides that a person to whom a Uniform Summons and Complaint is lawfully issued may not refuse to sign the Uniform Summons and Complaint after having been requested to do so by a law enforcement officer. The State must prove there was a factual basis for the Summons and that it was not signed by the defendant. 29-A M.R.S. § 2601(5). Here, State's Ex 5 showed the jury exactly that.

CONCLUSION

For the above reasons, the Court must affirm the guilty verdicts in all three counts.

CERTIFICATE OF SERVICE

I, Grant S. Whelan, hereby certify that a true copy of the above was sent to Defendant, via counsel, by virtue of electronic mail this March 30, 2026.

/s/ Grant S. Whelan

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